

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

GREGORY D. PHILLIPS

PLAINTIFF

v.

Civil No. 07-5051

NURSE ANDREA GARRETT; and
DR. HUSKINS

DEFENDANTS

ORDER

Defendants filed a motion for summary judgment (Doc. 13). To assist plaintiff in responding to the motion for summary judgment, the undersigned is propounding a questionnaire. The court will consider plaintiff's response to the questionnaire in issuing a report and recommendation on the motion for summary judgment.

For this reason, Gregory D. Phillips is hereby directed to complete, sign, and return the attached response to defendants' motion for summary judgment on or before **August 11, 2008**.

Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.

IT IS SO ORDERED this 15th day of July 2008.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE

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NURSE ANDREA GARRETT; and
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DEFENDANTS

RESPONSE TO SUMMARY JUDGMENT MOTION

TO: GREGORY D. PHILLIPS

These questions and answers will serve as your response to defendants' motion for summary judgment. You may use additional sheets of paper in responding to these questions.

You must file this response by **August 11, 2008**.

1. On February 5, 2007, you were booked into the Benton County Detention Center (BCDC) on a failure to appear charge.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 1 at page 1.

2. Were you released that day?

Answer:

3(A). You were booked again on February 6, 2007, on rape charges.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 3.

(B). When were you transferred to the Arkansas Department of Correction (ADC) or released from the BCDC?

Answer:

4. Your property was inventoried on February 6th and included black boots, a black cap, a blue shirt, black pants, and no money.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 6.

5. You had no medication with you at the time of booking.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 6.

6. On February 6th you completed a medical questionnaire. You indicated you were allergic to medications or foods containing sulfa, had leukemia, and were borderline diabetic.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 1.

7. On February 6th you signed an inmate medical insurance information form agreeing that you were responsible for medical treatment for any pre-existing injury or illness prior to incarceration at the BCDC.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 2.

8. On February 7th you were seen by medical personnel due to complaints of midsternal chest pain. You stated the pain started approximately thirty minutes ago while you were lying down. You stated both arms were tingly. Your blood pressure was 120/80 and you had no other symptoms. You were instructed that if your symptoms became worse to let the deputy know and you would be re-evaluated.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 48.

9. On February 9th Deputy Thomas Lee reported that while he was working in E-pod performing head counts the emergency button went off in cell #216 in E-102.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 1.

10. Deputy Ewing answered the button and you indicated you were having suicidal thoughts and needed to talk to a sergeant.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 1.

11. Lee called Sgt. Faulkenbury and informed him of the situation.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 1.

12. Sgt. Faulkenbury had you moved to the bottom tier and placed in an anti-suicide smock.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 3 at page 1.

13. You were moved to cell 123 in E-102 and put on fifteen minute checks.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 3 at page 1.

14. On February 9th you submitted a medical request. You stated you were having severe lower back pain. You said you were misunderstood and put in a suicide smock.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 3.

15. You were taken off suicide watch.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 3 at page 2.

16. On February 11th you submitted another medical request stating you were having severe lower back pain in your kidneys and "couldn't go" because of it. Plus you stated you were put in a suicide smock on Friday because of a misunderstanding. You stated you wanted to be taken out of it. You indicated you had cancer and it was easy for you to become

sick.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 4.

17. You were seen by Dr. John Huskins on February 12th. He noted you were complaining of low back pain. You told him you were not suicidal and had been in a smock. You also stated you had been in Washington Regional two weeks ago and had been told you had leukemia. He decided to obtain your records. He prescribed Tylenol.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 5.

18. On February 14th you asked for information concerning your charges. You were told you were being held on rape charges and a violation of Arkansas hot check law charge.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 1.

19. On February 15th you requested to speak to the chaplain about a Bible study. You also complained that you could not reach your family by phone because they only had cell phones. In response Cpl. Barnett stated the ministers had been notified. You were also told the phone could only call out to land lines. You were told you would have to write to your family.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 3.

20. On February 16th you submitted a grievance. You stated you needed to go to the emergency room. You stated you were complaining about pain in your kidney area in your sides, your stomach hurting, and problems urinating. You stated you had seen the doctor and nothing was done. In response, Captain Petray told you the doctor made the medical

decisions in the jail. He said he would forward your grievance to medical.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 4.

21. On February 16th you submitted a request stating you would like to be transferred to the Washington County Jail. You stated you felt it was unsafe in Benton County. You stated you were not getting the medical care you needed. You also asked for a 1983 form. In response, you were told the doctor made the medical decisions at the jail. You were also told they did not provide 1983 forms.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 5.

22. On February 18th you submitted a medical request. You stated you were still having severe back pain, pain in your kidney area, and stomach pain. You also stated you

were having trouble "going pee." You also asked for your cup back so you could drink plenty of water. Finally, you asked for an extra blanket and mat.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 6.

23. You were seen by Dr. Huskins on February 21st. He noted you were having flank pain primarily on the right side. Upon examination he noted no tenderness. He prescribed Cipro, an antibiotic, for three days.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 7.

24. You received the prescribed medication.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at

page 33.

25. On February 22nd you asked to be allowed to shave your face. You indicated you were getting bumps on your face.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 8.

26. In response, the nurse said that was totally up to the pod deputies' discretion. She stated she had nothing to do with shaves.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 8.

27. On February 26th you submitted a medical request. You stated you were still having a lot of pain in your kidney and stomach area and trouble going pee. You stated you believed you were going to have to go some where else and have some tests done. If it kept going no where, you stated you would be forced to file a 1983 form.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 9.

28. On February 28th you were seen by Dr. Huskins. He noted you were in for flank pain and also felt like you were having problems urinating. You were prescribed Keflex. He also noted they needed a CBC (complete blood count) and a urinalysis in the near future.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 10.

29. On February 28th Nurse Garrett obtained your signature on a medical release form to obtain a copy of your medical records.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 11.

30. On February 28th a pair of glasses was delivered to the jail for you by Peggy Williams.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 1 at page 7.

31. On March 5th you submitted a medical request for Carmex for your lips. You also complained your feet and elbows were cracking and you were still having trouble urinating and pain in the kidney area.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 13.

32. You were seen by Dr. Huskins on March 7th. He noted you continued to have flank pain and some trouble urinating. He continued you on Keflex for another week.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 14.

33. On March 11th you submitted a medical request for cracking feet and elbows.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 15.

34. You were seen by Nurse Garrett on March 12th. She provided you with cortisone cream and Carmex.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 49.

35. On March 13th you submitted a medical request stating you believed the lunch meat was making you sick. You asked for peanut butter for lunch or supper or something else.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 17.

36. In response, you were told "no diet changes."

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 17.

37. On March 14th you were seen by Dr. Huskins who noted you were on Cipro and Keflex. He noted your recent CBC and urine tests were negative. He prescribed Macrochantin.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 18.

38. On March 14th you submitted a grievance wanting to know why you couldn't become a trustee. In response, you were told that if they wanted you as a trustee they would make you one.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 6.

39. On March 15th you requested the address of the Governor's office and the office of Senator Jim Argue of Little Rock. In response you were told to ask a friend or family member.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 7.

40. On March 16th you submitted a medical request complaining you had not started getting the Carmex and lotion for your lips and elbow. You stated your lips were getting worse and you were getting fever blisters on them.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 19.

41. In response, Nurse Garrett stated she made a medication sheet and you would start receiving the Carmex and lotion and at noon the following day.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 19.

42. On March 19th you submitted a medical request stating you were still having pain and problems with your kidneys. When you urinated you stated there were traces of blood and you were also throwing up. You stated something needed something to be done before you had to be put in the hospital over it.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 20.

43. In response, someone wrote see the nurse on March 23rd. Did you receive any treatment on March 23rd?

Answer: Yes _____ No _____.

If you answered yes, please state what treatment you received.

44. On March 26th you requested something to dig out an ingrown toenail.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 21.

45. On March 26th you submitted another medical request stating that you were not seen by the Nurse on March 23rd. You stated you were still having trouble with your kidneys and when you urinated there was blood in it. You stated something needed to be done immediately.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at

page 22.

46(A). You were seen by Dr. Huskins on March 28th. He noted you were complaining of kidney pain. He noted you were on antibiotics and your symptoms had resolved. He also noted your CBC and urinalysis were negative. He prescribed Phenazopyrid for ten days.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 23 and page 39.

(B). You received the Phenazopyrid.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 39.

47. On April 7th you submitted a medical request. You stated that your sinuses were messed up and it was hard to breathe. You also stated it was the last day of your medication for your kidneys and you were still having problems. You stated that you would like to see about getting pain medication for headaches and your right knee. You noted you had surgery on your right knee in the past and it hurt sometimes.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 24.

48. In response, Nurse Garrett wrote that you would see the doctor on Friday.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 24.

49. You were seen by Dr. Huskins on April 13th. He noted you had sinus pressure and a history of urinary frequency. Because of this history, Dr. Huskins wanted to avoid antihistamine decongestant. He prescribed Tylenol for five days.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 25.

50. On April 16th you submitted a grievance complaining about a fellow inmate, David Mitchell, causing problems in the pod. In response, Captain Petray stated he would inform the pod to look for the problems you mentioned.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 8.

51. On April 19th Nurse Garrett treated you for a headache and provided you with Tylenol.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 49.

52(A). On April 22, 2007, you submitted a medical request complaining about your right knee hurting.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 26.

(B). You were seen by Nurse Garrett on April 25th. You were prescribed Tylenol for a week and you also complained of your lips being chapped and were prescribed Carmex.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 46.

53. On April 28th you submitted a medical request stating that you still had not been allowed to get the Carmex. You also asked if you could get two tablets of Tylenol three times a day instead of one tablet. Nurse Garrett responded that she ordered the Carmex but the Tylenol prescription would stay the same.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 27.

54(A). On May 2nd you submitted a medical request. You noted that your Tylenol prescription ran out that day. Because of your headaches, knee pain, and foot pain, you asked if it could be redone as an as needed prescription. You also asked if the Carmex could be redone also.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 28.

(B). In response, Nurse Garrett authorized you to have Ibuprofen on an as needed basis every six hours for four weeks. However, she refused your request for Carmex.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 28 and page 46.

55. On May 16, 2007, you submitted a grievance about being moved from a cell you had shared with Robert Mix. In response, you were told that the jail staff made the housing arrangements.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 4 at page 9.

56. On May 31st you submitted a grievance stating that your right foot and leg had been hurting. You stated you put in a request a week ago and had not seen anyone about it. You stated you were having trouble sleeping because of the pain.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 29.

57. You were seen by Dr. Huskins on June 1st. He prescribed additional medication and you received the medication.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 46.

58. On June 6, 2007, you submitted a medical request because of a stuffy nose. You also asked for Carmex because your lips were dry.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 30.

59. In response, Nurse Garrett on June 7th prescribed Benadryl twice a day for one week.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 2 at page 46.

60. You received all medication prescribed to you by Dr. Huskins and Nurse Garrett.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at pages 31-45.

61. You received all medical care and treatment prescribed to you by the Dr.

Huskins and Nurse Garrett.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain.

62. All orders of the jail medical staff were carried out by personnel at the BCDC.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain.

63. Please explain in detail how you believe Dr. Huskins exhibited deliberate indifference to your serious medical needs.

Answer:

[illegible]

64. Please explain in detail how Nurse Garrett exhibited deliberate indifference to

65. You received all medical care and treatment Dr. Huskins believed in the exercise of his medical judgment that you needed.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain.

66. You received all medical care and treatment Nurse Garrett believed in the exercise of her judgment that you needed.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain.

67. Did you suffer any physical injury as a result of a delay in your receiving medical care while at the BCDC?

Answer: Yes _____ No _____.

If you answered yes, please state: (a) the physical injury you suffered; (b) the symptoms you experienced; (c) the severity of those symptoms; (d) whether you sought, or received medical treatment; (e) the treatment you received; (f) how long it took you to recover from the treatment; and (g) attach to this response medical records establishing the existence of the injuries or the effect the delay in treatment had on your health. If you do not have any records, explain to the court why you do not have any records.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

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Detail below any further response you would like to make to defendants' motion for summary judgment. If you have any exhibits you would like the court to consider, you may attach them to this response.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

EXECUTED ON THIS _____ DAY OF _____ 2008.

GREGORY D. PHILLIPS